

**MINUTES OF THE REGULAR MEETING OF THE
BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS
FOR FEBRUARY 7, 2007**

The **Regular Meeting** of the Council of Commissioners was called to order Wednesday, **February 7, 2007** in the Council Chambers, Third Floor, Room 312, Courthouse Building, 155 West Granite, Butte, Montana by Chief Executive Paul Babb.

ROLL CALL

10 present, 2 absent. Commissioners Moodry and Coleman were excused.

PRAYER

Commissioners were led in prayer by Commissioner Fay.

**APPROVAL OF THE MINUTES OF THE JANUARY 17, 2007
REGULAR MEETING AND THE MINUTES OF THE SPECIAL
MEETING OF JANUARY 31, 2007**

Commissioner Lee made a motion for correction to the Minutes of the Special Meeting to change the recommendation to read “approve and place on file” instead of “place on file”. Commissioner O’Leary seconded the motion and it passed with a unanimous verbal vote.

It was moved by Commissioner O’Leary, seconded by Commissioner Sheehy and carried by a unanimous verbal vote to approve the Minutes of the January 17, 2007 Regular Meeting and the Special Meeting of January 31, 2007 as amended.

**ITEMS NOT ON THE AGENDA –
SUSPENSION OF THE RULES**

None

**PUBLIC COMMENT ON ANY PUBLIC MATTER
NOT ON THE AGENDA**

None

CHIEF EXECUTIVE'S REPORT

Chief Executive Babb reported that last night the CVA All Star game was a huge success. There was 3200 fans and some of the best talent around. It was a real chance for Butte to showcase, not only our Civic Center but our community. We had 12 MBA scouts that were there. We had people from all over the country that were covering this, fans that followed their players in to watch these folks play. He encouraged all to come to these games.

Tomorrow there will be a hearing in Helena for Senate Bill 14. This has to do with road closures where a landowner wishes to close a road he will have to give notice to the Council of Commissioner of that county. He will be testifying on that bill. This is something that we want to support after what happened with the Highlands Road and we know that more of that will be coming our way.

Also, tomorrow at 10 AM in the Council Chambers we will have two proposals that will be coming before us on a new web site for Butte-Silver Bow.

On Monday at 6:30 at the Red Lion the Public Service Commission is seeking comments on the Northwestern – BBI Sale. If you are interested in going to that there will be members of the PSC there to listen to the public and take oral and written comments.

SECTION I

CONSENT AGENDA

- A.**
 - 1. COMMITTEE OF THE WHOLE MEETING REPORT
 - 2. FINANCE AND BUDGET COMMITTEE MEETING REPORT
 - 3. JUDICIARY COMMITTEE MEETING REPORT
 - 4. PUBLIC WORKS COMMITTEE MEETING REPORT
 - 5. PERSONNEL COMMITTEE MEETING REPORT

B. PETITIONS

C. COMMUNICATIONS

Before entertaining a motion on the Consent Agenda, Chief Executive Babb called for any segregations. Commissioner O'Leary called for a "friendly amendment" . He said on Page 5, Items 35 and 36 are duplicates so we can just scratch Item No. 36. He also segregated No. 37, Communication No. 07-83. Commissioner Shaw called for a "friendly amendment" to Communication No. 07-54 a line item transfer request from Sheriff Walsh. The date on the Budget transfer is 10/27/05. Commissioner Mulcahy made a "friendly amendment" to Item No. 17, Communication No. 07-63. He wishes to revise the agenda language to also include the authorization to conduct a second bid opening for two 2007

1500 Pumper Trucks. The original communication submitted by Mr. Miller actually asks for two bid openings.

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a unanimous verbal vote to approve the Consent Agenda, Section A, Items 1 through 5, Section B, Item 1 and Section C, Items 1 through 39 exclusive of Item 37 and the deletion of Item 36.

Communication No. 07-83

Jean Pentecost, Operations Manager, requesting permission to advertise for water main renewal and authorization for Chief Executive to sign contract.

Commissioner O’Leary explained there may be a problem with the advertising on this one. County Attorney Bob McCarthy, said he thinks there has been a further development on this and called on John Van Daveer, Director of the Public Works Department. Mr. Van Daveer said he spoke with Ms. Pentecost and discussed some possible changes to this communication. If that is so they would have to advertise again. **Commissioner O’Leary then moved that Communication No. 07-83 be placed on file. The motion was seconded by Commissioner Lee and carried by a unanimous verbal vote.**

SECTION II COMMUNICATIONS TO BE READ AND ACTED UPON

1. 07-48 John P. Walsh, Sheriff, requesting confirmation of Benjamin Rauch as a permanent member of the Butte-Silver Bow Law Enforcement Department.

Sheriff Walsh came forward and introduced Benjamin Rauch as a permanent member of the Butte-Silver Bow Law Enforcement Department. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to concur with the request in the confirmation of Benjamin Rauch as a permanent member of our Law Enforcement Department.**

2. 07-64 Paul D. Babb, Chief Executive, requesting concurrence in approval of Thomas Deiter as a probationary entry-level fire fighter.

Director of Fire Services, Jeff Miller came forward to introduce Thomas Deiter as a probationary entry-level fire fighter. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a unanimous verbal**

vote to concur with the request in Communication No. 07-64 and approve Mr. Thomas Deiter as a probationary entry-level fire fighter.

3. Charlie O’Leary, Commissioner District 5, requesting Council viewpoint on the possibility of contracting with Russ Reid Company for help in securing federal funding for unfunded infrastructure problems in Butte-Silver Bow.

07-86

Commissioner O’Leary explained the problem of some of our infrastructure needs coming up in the future. The two most important ones would be the need for a filtration plant on our Basin Creek Watershed and a nutrient upgrade at Metro Sewer. Other things that we discussed was a parking garage in uptown Butte, extending water and sewer lines into the southern end of the valley. The sewer lines in uptown Butte are over 100 years old and need to be replaced, and there are other ones. The Russ Reid Company contracts with municipalities, and they position your proposals before Congress in such a way that you do get some funding for these things. He just wants to begin a discussion about these things and over the next few months complete a number of tasks and get us to the point of whether or not we would like to do this. **It was moved by Commissioner O’Leary, seconded by Commissioner and carried by a unanimous verbal vote to refer the Communication to Committee of the Whole.**

SECTION III

ORDINANCES AND RESOLUTIONS – REFERRED TO JUDICIARY

1. **COUNCIL BILL NO. 07-2
ORDINANCE NO. 07-2**

AN ORDINANCE AMENDING CHAPTER 10.48 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “MISCELLANEOUS DRIVING RULES”; ADDING A NEW SECTION ENTITLED “DRIVING WITHOUT MOTOR VEHICLE INSURANCE PROHIBITED” TO BE NUMBER SECTION 10.48.165; PROVIDING FOR A SURCHARGE AS SET FORTH IN SECTION 10.96.010 AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

2. **COUNCIL RESOLUTION NO. 07-05**

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE PRELIMINARY PLAT OF THE RML MINOR SUBDIVISION OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA;

PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

3. COUNCIL RESOLUTION NO. 07-6

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE KELLEY MINOR SUBDIVISION – SUMMARY REVIEW OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

4. COUNCIL RESOLUTION NO. 07-08

A RESOLUTION ACCEPTING THE DONATION OF LOT 5 IN BLOCK 9 OF THE PLYMOUTH ADDITION AND LOT 11 OF THE SILVER JOE AND CARRIE LODE LOCATED IN SECTION 13, TOWNSHIP 3 NORTH, RANGE 8 WEST, P.M.M. TO THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

SECTION IV ORDINANCES - SECOND READING

**1. COUNCIL BILL NO. 06-12
ORDINANCE NO. 06-12**

AN ORDINANCE AMENDING BUTTE-SILVER BOW ORDINANCE NO. 239 AND CHAPTER 2.64 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “HISTORIC PRESERVATION COMMISSION”; REPEALING CHAPTER 17.33 OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “H HISTORIC OVERLAY ZONE”; PROVIDING FOR THE PRESERVATION, PROTECTION, AND PROMOTION OF HISTORIC PROPERTIES, APPOINTMENT ND QUALIFICATION OF MEMBER, DUTIES AND RESPONSIBILITIES OF THE HISTORIC PRESERVATION COMMISSION; APPOINTMENT AND DUTIES OF THE LOCAL HISTORIC PRESERVATION OFFICER; CREATION OF A LOCAL REGISTER AND ITS DESIGNATION AND PROCEDURES; CREATION AND ADMINISTRATION OF DESIGN REVIEW PROTECTION FOR LOCAL REGISTER PROPERTIES; CREATION AND REVIEW OF LOCAL PRESERVATION INCENTIVES; DEVELOPMENT AND PUBLICATION OF HISTORIC PRESERVATION GUIDELINES; REVIEW AND AUTHORIZATION OF DEMOLITION PERMITS ON HISTORIC PROPERTIES; CREATION OF DEMOLITION BY NEGLECT PROCEDURES ON HISTORIC PROPERTIES; ENFORCEMENT OF THIS ORDINANCE; REPEALING BUTTE-SILVER BOW ORDINANCE NO. 238 IN

ITS ENTIRETY AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary and seconded by Commissioner Lee to move Council Bill No. 06-12, Ordinance No. 06-12 be moved to final reading and passed.** On the question, Commissioner Sheehy asked if this would prevent Habitat homes from being built in the district. County Attorney Bob McCarthy said that it won’t have any affect at on this new construction that the Habitat organization is contemplating. He asked for Rick Larson to come forward. He came forward and explained that in this ordinance there is a section 10 which is the local registered properties section. It is a new section in this ordinance and it’s strictly voluntary and what that means is if someone in the district has a historic home they can list it as a Local Registered Property. They have to agree to maintain that property in its original historic state. They can’t change it. In this ordinance when they mention new construction it only pertains to these Local Registered Properties. That’s the only thing that mentioned in this ordinance with regards to new construction. **The motion carried with 9 nays, 1 nay and 2 absent. Commissioner Mulcahy voted nay.**

**2. COUNCIL BILL NO. 07-1
ORDINANCE NO. 07-1**

AN ORDINANCE AMENDING SUBSECTION 9.01 OF SECTION 4 OF BUTTE-SILVER BOW ORDINANCE NO. 204 AND SECTION 10.32.010(i) OF THE BUTTE-SILVER BOW MUNICIPAL CODE (B-SB MC) ENTITLED “STOP SIGNS”; PROVIDING THAT TRAFFIC PROCEEDING ALONG IDAHO STREET SHALL STOP BEFORE ENTERING THE INTERSECTION OF IDAHO STREET AND JOSETTE AVENUE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried with a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Bill No. 07-1, Ordinance No. 07-1 be moved to final reading and passed.**

**SECTION V ORDINANCES AND RESOLUTIONS –
FINAL READING**

1. COUNCIL RESOLUTION NO. 07-1

A RESOLUTION VACATING, CLOSING, DISCONTINUING AND ABANDONING THE STREET ADJACENT TO LOTS 14, 15, 16, 17 AND 18, THE ALLEY ADJACENT TO LOTS 9, 10, 11, 12 AND 13 AND THE ALLEY ADJACENT TO LOTS 3, 4, 5, 6, 7 AND 8, ALL IN BLOCK 45 OF THE SOUTH PARK ADDITION WITHIN THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PRESCRIBING THE EFFECTIVE DATE OF THIS RESOLUTION AND FINDING THE NECESSARY FACTS HEREIN. **It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2**

absent that Council Resolution No. 07-1 be passed on final reading having been fully read at length.

2. COUNCIL RESOLUTION NO. 07-03

A RESOLUTION GRANTING CONDITIONAL APPROVAL OF THE FINAL PLAT OF THE NICHOLS MINOR SUBDIVISION – SUMMARY REVIEW OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA; PROVIDING FOR THE REPEAL OF ALL PARTS OF RESOLUTIONS IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to place Council Resolution No. 07-03 on final reading and passed having been fully read at length.

**SECTION VI ORDINANCES AND RESOLUTIONS –
SUSPENSION OF THE RULES FOR FINAL PASSAGE**

It was moved by Commissioner O’Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent to suspend the rules for the purpose of passing Council Resolution no. 07-4 by waiving subsection 7 of Rule XXXVI of the Rules and Order of the Business of the Council of Commissioners, there by having it considered for advanced passage without reference to the Judiciary Committee.

1. COUNCIL RESOLUTION NO. 07-4

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A CERTAIN PARCEL OF REAL PROPERTY UNOFFICIALLY DESCRIBED AS LOT 9 AND LOTS 25, 26 AND 27 OF THE BALTIC LODGE (AN UNFILED PLAT), LOCATED IN SECTION 13, TOWNSHIP 3 NORTH, RANGE 8 WEST, BUTTE-SILVER BOW, MONTANA, FOR THE PURPOSE OF COMMUNITY DEVELOPMENT IN ACCORDANCE WITH THE PROCEDURES OF BUTTE-SILVER BOW MUNICIPAL CODE AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. It was moved by Commissioner O’Leary, seconded by Commissioner Lee that Council Resolution No. 07-4 be approved on final reading having been fully read at length. The motion passed with a roll call vote of 10 yeas, 0 nays and 2 absent.

Commissioner O’Leary remade the motion to suspend the rules to include Council Resolution No. 07-7. The motion was seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent.

2. COUNCIL RESOLUTION NO. 07-7

A RESOLUTION AUTHORIZING AND APPROVING THE SALE OF A PARCEL OF REAL PROPERTY DESCRIBED AS A PORTION OF THE BLUEBELL LODGE, MINERAL SURVEY NO. 3776 LOCATED IN SECTION 25, TOWNSHIP 3 NORTH, RANGE 8 WEST, P.M.M., OWNED BY THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA TO THE ADJOINING OWNER PURSUANT TO POLICIES ADOPTED BY THE COUNCIL OF COMMISSIONERS AND PROVIDING FOR AN EFFECTIVE DATE HEREIN. **It was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried by a roll call vote of 10 yeas, 0 nays and 2 absent that Council Resolution No. 07-7 be passed on final reading having been deemed fully read at length.**

ADJOURN

There being no further business to come before the Council, it was moved by Commissioner O'Leary, seconded by Commissioner Lee and carried with a unanimous verbal vote to Rise to the Call of the Chair.

The meeting adjourned at 9:20 PM.

CHIEF EXECUTIVE

ATTEST:

CLERK AND RECORDER

